



Written by [Bruce Walker](#) on February 21, 2011

Is the Reign of “Czars” Over?

The vote was largely along party lines, with Wisconsin Congressman Reid Ribble the only Republican voting against the measure. Thirteen Democrats voted for the Scalise amendment. Although most of these were “Blue Dog” Democrats from the South — Dan Boren (Okla.), Ben Chandler (Ky.), Henry Cuellar and Gene Green of Texas, Nick Rahall (W.Va.), Mike Ross (Ark.), and North Carolina's Heath Shuler, Mike McIntyre and Larry Kissell — some Democrats who have been friends of the Obama administration voted for the amendment: Jerry Costello (Ill.), Peter DeFazio (Ore.), Ed Pastor (Ariz.), and Jim Matheson (Utah).



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[Congressman Scalise](#) commented February 17:

The dramatic increase in czars by this administration is a dangerous and growing trend, and my amendment to start defunding President Obama's czars will fully reverse this reckless practice. Hardworking American taxpayers should not be forced to pay for a shadow government run by radical czars who circumvented the accountability and transparency called for in the Constitution through Senate confirmation. It's time we start sacking these czars, and I look forward to the passage and inclusion of this amendment into the upcoming CR [Continuing Resolution].

Among the federal jobs which would be ended are “czars” for health care, energy and climate, green jobs, urban affairs, Guantanamo Bay, TARP executive compensation, diversity at the Federal Communications Commission, and auto industry affairs.

Scalise noted that Carol Browner, the climate czar who ostensibly left that post, continues to operate behind the scenes. She rewrote sections of a Department of the Interior report to suggest that an independent groups of scientists and engineers had recommended a six-month ban on offshore drilling in the Gulf of Mexico in the wake of the British Petroleum oil spill. Congressman Scalise noted his concerns about Browner's report: “It was found out that it was the climate czar that actually doctored the president's own scientific study to try to say that scientists [whom] the president appointed recommended a moratorium on drilling. It turned out the scientists didn't say that at all.”

More than just bad behavior by the czars is at stake in Scalise's amendment to defund them. The Constitution does not allow the President unlimited and unaccountable range in delegating executive powers. Article II, Section 2, Clause 2 of the Constitution provides how the President may invest others with executive authority:

[H]e shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other



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Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Offices, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Yet Congress has not authorized the appointment of these “czars” and the Senate has not confirmed the presidential appointments of them. Indeed, the Senate has not been *asked* to confirm the appointments of the czars. There are more than [1,000 offices](#) in the Executive branch which have been, by tradition, interpreted as requiring Senatorial approval, which suggests all policy-making officials. President Obama has deliberately removed Congress from the whole process of oversight in the administration of the Executive branch of the federal government. The Constitution does not envision the President writing a blank check to inferior officers with no congressional approval; furthermore, our foundational document creates a way to remove wayward officers of the Executive branch. Article II, Section 4 of the Constitution provides that:

The President, the Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery and other high Crimes and Misdemeanors.

Article I, Section 2 of the Constitution provides:

The House of Representatives shall chuse their Speaker and other Officers, and shall have the sole Power of Impeachment.

Impeachment means the indictment or accusation component of the proceeding to remove officers of the Executive or Judicial branches who have behaved improperly.

Article I, Section 3 of the Constitution provides:

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

This trial results in the offender's removal from office and disqualification for any future office of honor or trust (but not criminal sanctions). The processes of Senate confirmation, House impeachment of misbehaving officers, and the removal, after trial, of those officers by the Senate is not hollow congressional power. It is obviously intended to be a means by which no major officer of the government can remain in office if Congress is convinced that the officer is not acting according to Constitution, law, or standards of appropriate behavior for government officers.

Czars such as Carol Browner, however, are brought outside the loop of oversight. Presidents have, with no constitutional problems at all, relied upon informal advisers, the “kitchen cabinet” as it was first called in the administration of President Andrew Jackson, to help guide policy. These may or may not be actual employees of the federal government (a President is certainly free to consult with the Attorney General about diplomatic issues or the Secretary of State about military matters — there are always gray areas of policy). When these officers wield significant power, however, Senate review and confirmation have been required. The chance to ask questions, to investigate personal rectitude, and explore a candidate’s interpretation of the duties of his office, has been considered a prerogative of the Senate. The opportunity to explore on a formal basis possible misconduct — impeachment — has been considered a prerogative of the House of Representatives.



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It would appear, to those who take our Constitution and its balance of powers seriously, that the larger and more intrusive the offices of the Executive branch become, the more crucial it would be for Congress to exercise its duties to act as a check. The amendment by Congressman Scalise may be a first step back to that constitutional role of Congress.

Photo: Rep. Steve Scalise



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